IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

FRIDAY, THE 15TH JUNE 2007 / 25TH JYAISHTA 1929

OP.No. 16349 of 2000(U)

PETITIONER:

M.JANAMMA,
W/O. LATE M. GOPALAN,
PUTHENPURA THEKKETHIL,
KUTHIRAPANTHY P.O.,
THAZHAVA, KOLLAM DIST.

BY ADV. SRI.S.R.MANOJ
SMT.SMITHA DIVAKARAN

RESPONDENTS:
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1. **THE CHIEF ENGINEEER, OFFICE OF THE CHIEF ENGINEER, GENERAL ROADS AND BRIDGES, THIRUVANANTHAPURAM.**

2. **THE EXECUTIVE ENGINEER, P.W.D. ROADS, DIVISION, PATHANAMTHITTA.**

3. **THE ASSISTANT EXECUTIVE ENGINEER, B&R SUB DIVISION, ADOOR.**

BY GOVERNMENT PLEADER SRI. K.V. MANOJ

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 15/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP NO. 26749/2000 IN OP NO.16349/2000 U.

DISMISSED

15/06/2007. **SD/- T.R.RAMACHANDRAN NAIR, JUDGE.**

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE GO P NO. 146/86/FIN DT. 11/2/86 OF ADDL. SECRETARY TO FINANCE (PENSIONS) DEPARTMENT, GOVT. OF KERALA.

EXT.P2. COPY OF THE LETTER NO. FE. 3.39751/85 DT. 12/3/86 BY R1.

EXT.P3. COPY OF THE PETITION FILED BY THE PETITIONER BEFORE R3 DT. 25/3/86.

EXT.P4. COPY OF THE PETITION DT. 3/12/99 TO THE R3.

EXT.P5. COPY OF THE LETTER NO. E. 456/86 DT. 7/12/99 FROM R3 TO EXE. ENGINEER, COPY TO THE PETITIONER.

RESPONDENT'S EXHIBITS

EXT.R1A. COPY OF THE GO P NO. 503/92/FIN DT. 18/08/92.

True copy

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T.R. Ramachandran Nair, J.

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O.P.NO.16349 of 2000-U

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Dated this the 15th day of June, 2007

JUDGMENT

The petitioner is the widow of late M. Gopalan who was employed as a Road Roller Driver at the office of the Bridges and Roads Sub Division, Adoor. The husband of the petitioner passed away on 17.12.1968 while in service. According to the petitioner, Ext.P1 Govt. Order enables her to claim Family Pension. It is stated by the petitioner that even though there were some correspondences between the officers concerned, nothing materialised and she had to submit a fresh representation as Ext.P4. Ext.P5 will show that Ext.P4 was forwarded to the Executive Engineer, P.W.D. Roads Division, Pathanamthitta for action by the Asst. Executive Engineer, Bridges and Roads Sub Division, Adoor.

2. The respondents have filed a counter affidavit. It is pointed out that the deceased husband of the petitioner was working in a category which was a non-pensionable one at the time of issuance of Ext.P1 and therefore Family Pension was not sanctioned to her. It is specifically stated that the Government as per G.O.(P) No.503/92/Fin. Dated 18.8.1992 had issued a modified order whereby the benefit of liberalised family pension sanctioned

as per G.O.(P) NO.146/86/Fin. Dated 11.2.1986 is extended to the category of work establishment staff who were in non pensionable establishment service with effect from 18.8.1992. It is further submitted that petitioner had to submit a fresh application as per the provisions of G.O. Dated 18.8.1992 and it is assured that on receipt of the same, family pension will be sanctioned and forwarded to the Accountant General for authorisation subject to the eligibility.

3. In view of the change of position, the petitioner will be entitled for the benefit of Ext.R1(a) G.O. Dated 18.8.1992. It is clear from Ext.P5 that the application Ext.P4 received was forwarded to the Executive Engineer by the Asst. Executive Engineer. Even if there is any defect in the application, the competent authority can direct the petitioner to submit any further application and on that basis can proceed to give sanction for the family pension. Merely because of any alleged defect in the application Ext.P4, the benefit cannot be denied.

Therefore, there will be a direction to the respondents to take appropriate follow up action on the application submitted by the petitioner as Ext.P4 which is referred to in Ext.P5 and disburse eligible benefits to the petitioner, if it is not already disbursed, within a period of four months from the date of receipt of a copy of this judgment.

The original petition is allowed as above. If the petitioner has got any further grievance regarding the amount eligible to be paid to her, she is free to take the issue before the appropriate authority.

(T.R. Ramachandran Nair, Judge.)

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T.R. Ramachandran Nair, J.

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O.P.NO.16349 of 2000-U

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JUDGMENT

15th day of June, 2007